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SUPREME COURT OF THE UNITED STATES.

No. 76.

JAMES RHODES, PLAINTIFF IN ERROR,

vs.

MOSES BELL.

IN ERROR TO THE CIRCUIT COURT U. S. FOR WASHINGTON COUNTY, D. C.

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J. & G. S. GIDEON, Printers.

Petition to chief justice U. S. for writ of error.

To the honorable Roger B. Taney, chief justice of the United States.

The petition of James Rhodes of Washington county, in the District of Columbia, respectfully showeth, that at March term, 1842, of the circuit court of the District of Columbia, in and for Washington county, a certain Moses Bell, (colored,) by judgment of said court, recovered his freedom against your petitioner, who then held, and still holds, said Moses Bell as his lawful slave, as will more fully appear by the record of the proceedings in said cause herewith exhibited as part of this petition. Your petitioner showeth that he is aggrieved by said judgment, and he prays that an order may be passed by your honor directing a writ of error to be issued by the clerk of said court for the county of Washington, according to the act of Congress, entitled "an act to limit the right of appeal from the circuit court of the United States for the District of Columbia," approved 2d April, 1816; otherwise your petitioner will lose the benefit of all appeal to the supreme court of the United States, as the matter in controversy is less in value than one thousand dollars, though exceeding in value the sum of one hundred dollars, exclusive of costs, and he refers to the subjoined assignment of errors as part of this petition; and your petitioner as in duty will ever pray.

JAMES RHODES,
By BRENT & BRENT, *his attorneys.*

Assignment of errors.

Assignment of errors in the judgment referred to in the aforegoing petition.

1st. There is error, because the removal of Moses Bell from Alexandria county to Washington county, in the District of Columbia, as stated in the special verdict, did not entitle him to his freedom under any law in force in said district.

2d. Moses Bell being over 45 years of age at the time of such removal, was incapable, by the laws in force in said Washington county, of receiving his freedom by or *through any act* or acts of his master or owner.

3d. That said removal of Moses Bell is not an *importation*, according to the true intent and meaning of the laws in force in Washington county aforesaid.

Bank of Alexandria vs. Dyer—*See case of Bank of Alexandria vs. Dyer, decided by supreme court within last four years.*

4th. That such removal, even if it would have been illegal previous to the year 1812, was legalized and allowed by act of Congress of the 24th June, 1812.

8 Peters, p. 49—*See* 8 *Peters, p.* 49, which shows how unsettled the law is on these points, and how desirable a decision is for citizens of the District, whose daily transactions may be within the operation of these principles.

Whereupon the honorable chief justice made the following order, to wit:

Ordered that the writ of error be issued according to the prayer of the within petition.

R. B. TANEY,
Chief justice of the supreme court of the United States.

Dec. 13, 1842.

To William Brent, clerk of the circuit court for Washington county, in the District of Columbia.

Thereupon the following writ of error issued as ordered, to wit:

Writ of error.

DISTRICT OF COLUMBIA, to wit:

The United States of America to the judges of the circuit court of the District of Columbia, sitting for the county of Washington, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said court before you, or some of you, between Moses Bell plaintiff, and James Rhodes defendant, a manifest error hath happened to the great damage of *of* the said defendant, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you if judgment be therein given, that under your hand, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the second Monday of January next, in the said supreme court to be then and there held; and that the record and proceedings aforesaid being inspected, the said supreme court may cause further to be done therein to correct that error, which of right, and according to the laws and customs of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of said supreme court.

Issued this 16th day of December, 1842.

W. BRENT, *Clk.*

DISTRICT OF MARYLAND, to wit:

The United States of America to Moses Bell, greeting:

You are hereby cited and admonished to be and appear at a supreme court of the United States, on the second Monday of January next, pursuant to writ of error filed in the clerk's office of the circuit court of the United States for the District of Columbia, in the county of Washington, wherein James Rhodes is plaintiff in error, and you are defendant in error, to show cause, if any there be, why judgment rendered against the said James Rhodes, plaintiff in error, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness my hand and seal, this 13th day of December, 1842.

[L. S.] R. B. TANEY,

Chief justice of the supreme court of the United States.

Service acknowledged.

J. HOBAN, for
MOSES BELL.

December 14, 1842.

Copy of appeal bond.

Know all men by these presents, that we, James Rhodes, Joseph S. Clarke, and Richard G. Briscoe, of Washington county, in the District of Columbia, are held and firmly bound unto Moses Bell, in the full and just sum of five hundred dollars current money of the United States, to be paid to the said Moses Bell, his certain attorney, executors, administrators, or assigns, to which payment, well and truly to be made and done, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 1st day of December, 1842.

Whereas application is about to be made to prosecute and sue forth a writ of error to reverse the judgment of the circuit court of the District of Columbia, sitting for the county of Washington, in a suit pending in the said court between Moses Bell, plaintiff, and James Rhodes, defendant, wherein judgment was rendered against the said James Rhodes.

Now, the condition of the above obligation is such, that if the said James Rhodes shall prosecute his writ with effect, and answer all damages and costs, if he fails to make his plea good, then the above obligation to be null and void, otherwise to be and remain in full force and virtue in law.

JAMES RHODES, [SEAL.]
JOSEPH S. CLARKE, [SEAL.]
RICH'D G. BRISCOE, [SEAL.]

Signed, sealed, and delivered in presence of
JAMES T. CLARKE.

December 13, 1842, approved.

R. B. TANEY.

Style of court.

DISTRICT OF COLUMBIA, to wit:

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the fourth Monday of March, being the twenty-eighth day of the same month, in the year of our Lord one thousand eight hundred and forty-two, and of the independence of the United States the sixty-sixth.

Present, the honorable William Cranch, chief judge, Buckner Thruston and James S. Morsell, asst. judges. Alexander Hunter, esq., marshal. Wm. Brent, clerk.

In the records of the proceedings of the said court, among others are the following, to wit:

MOSES BELL, } Parties.
vs.
JAMES RHODES. }

Be it remembered that heretofore, to wit: on the eighteenth day of March, in the year of our Lord one thousand eight hundred and forty-one, the said Moses Bell by Richard Wallach, esquire, his attorney, filed in court here the following petition, to wit:

Petition for freedom.

To the honorable the judges of the circuit court of the District of Columbia, for Washington county.

The petition of Moses Bell respectfully represents unto your honors that your petitioner is entitled to his freedom; that he is held in slavery by one James Rhodes of the said county, and prays that a subpœna may issue to the said James Rhodes, and his rights be inquired into by your honors.

R. WALLACH, *for petitioner.*

Thereupon the United States writ of subpœna was issued, directed to the marshal of the District of Columbia, in the words and of the tenor following, to wit:

Subpœna.

DISTRICT OF COLUMBIA, to wit:

The United States of America to the marshal of the District of Columbia, greeting.

We command you that you summon James Rhodes, late of Washington county, if he shall be found within the county of Washington, in your said district, so that he be and appear before the circuit court of the District of Columbia, to be held for the county aforesaid, at the city of Washington, on the fourth Monday of March next, to answer unto Moses Bell's petition for freedom, filed in the said court against him.

Hereof fail not at your peril, and have you then and there this writ.

Witness William Cranch, esquire, chief judge of our said court, at the city of Washington, the 27th day of January, anno domini one thousand eight hundred and forty-one.

Issued the 18th day of March, 1841.

WALLACH. W. BRENT, *Clk.*

At which mentioned fourth Monday of March, in the year of our Lord one thousand eight hundred and forty-one, and the day of the return of the above subpœna, comes again into the circuit court here, the said petitioner by his attorney aforesaid, and the marshal of the District aforesaid, to whom the same was directed, makes return thereof to the court here, thus endorsed, to wit:

Marshal's return.

"Summoned. A. HUNTER, *Marshal.*"

Defendant's appearance and ru. plea.

And the said defendant being called, appears in court here by Brent & Brent, esqrs., his attorneys; whereupon, on motion of the said petitioner, by his attorney aforesaid, it is ruled by the court here that the said defendant answer to the said complaint of the petitioner in the plea aforesaid, or judgment by the court here will be entered against him in default thereof.

Imparlance to Nov. term 1841.

And the said defendant by his attorneys aforesaid defends the force and injury, when and so forth, and prays leave of the court here to imparle until the fourth Monday of November next, and then to answer the complaint of the said petitioner in the plea aforesaid, and to him it is granted; the same day is given to the said petitioner also.

Not free, and issue joined.

At which mentioned fourth Monday of November, in the year of our Lord one thousand eight hundred and forty-one, to which said day the said defendant had leave to imparle and then to answer to the complaint of the said petitioner in the plea aforesaid, comes again into the circuit court here, as well the said petitioner by his attorney aforesaid, as the said defendant by his attorneys aforesaid; and the said defendant by his attorney aforesaid as before defends the force and injury, when and so forth, and says that the said petitioner is not entitled to his freedom, as is alleged, and of this he puts himself upon the country, and the said petitioner in like manner, and so forth.

Venire facias to March term 1842.

Therefore let a jury thereon appear before the court here on the fourth Monday of March next, by whom, &c. and who neither, &c. to recognise, &c. because as well, &c. and the same day is given to the said parties then and there, &c.

And now at this day, to wit: the said fourth Monday of March, in the year of our Lord one thousand eight hundred and forty-two, comes again into the court here as well the said petitioner by his attorney aforesaid, as the said defendant by his attorney aforesaid. Whereupon, for trying the issue aforesaid, it is ordered by the court here that twelve persons from the pannel of petit jurors returned to the court here by the marshal of the District of Columbia be called; who being called, come, to wit:

Jury.

1 John H. Goddard
2 Daniel Campbell
3 Benjamin F. Middleton
4 Thomas McGill
5 Jacob A. Bender
6 Henry Haw
7 Robert K. Nevitt
8 Vincent King
9 George W. Dashiell
10 Thomas B. Riley
11 James Lusby
12 Edward Brooke

who being duly empannelled and sworn to say the truth in the premises, upon their oath do say—

Special Verdict.

"We of the jury find that previous to the year 1837 the petitioner "was the slave of a certain Lawrence Hoff, a resident of Alexandria "county, in the District of Columbia; that in the year 1837 the said "Hoff, then owning and possessing the petitioner as his slave, in the "county of Alexandria aforesaid, whereof he continued to be a resi- "dent, did sell and deliver the petitioner to one Little, then being a re- "sident of Washington county, in the District aforesaid, and that the "delivery of the petitioner was made to the said Little in Alexandria "county aforesaid, and the petitioner was immediately removed by said "Little to Washington county aforesaid to reside, and also for sale, "whereof said Little was resident; that the said Little shortly after- "wards, to wit, about one year or a little more, sold the petitioner to "one Keeting, in Washington county, who sold and delivered him to "the defendant; that since said sale to said Little, the petitioner has "always been kept and held in slavery in the county of Washington "aforesaid; that at the time of the sale and delivery of the petitioner as "aforesaid by Hoff to Little, the petitioner was more than forty-five "years of age, to wit, he was 54 or 55 years old, and is now 59 or 60 "years old. And if upon the facts aforesaid the law is for the petition- "er, then we find for the petitioner on the issue joined; if upon the "facts aforesaid the law is for the defendant, then we find for the de- "fendant on the issue joined." Whereupon all and singular the premises being by the court here seen, heard, and fully understood, and mature deliberation being thereupon had, the court is of opinion, from the statement of facts aforesaid, that the law is for the petitioner.

Judgment for petitioner.

Therefore it is considered by the court here that the said Moses Bell, the petitioner aforesaid, recover his freedom of and against the said James Rhodes, and that he be free and discharged of and from the service of the said James Rhodes, and that he the said Moses Bell go thereof freed and discharged without day, &c.

It is also considered by the court here that the said Moses Bell recover against the said James Rhodes the sum of twenty-one dollars and seventy-two cents, by the court here unto him the said Moses Bell adjudged on his assent for his costs and charges by him about the prosecution of his petition aforesaid laid out and expended, and that he have thereof his execution, &c.

Memorandum—1842, August 20th, judgment rendered in this case on special verdict for petitioner, and $21 72 costs.

Test, W. BRENT, *Clk.*

Writ of error produced.

And whereas afterwards, to wit, on the thirteenth day of December, in the year of our Lord one thousand eight hundred and forty-two, the said James Rhodes, the defendant aforesaid, by his attorney aforesaid, produced and filed in court here the United States writ for the